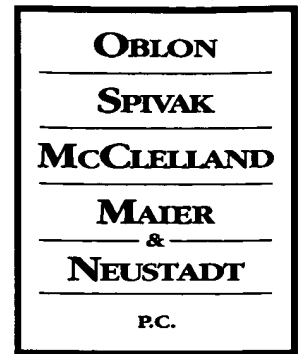




Docket No.: 249223US2 CONT

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



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RE: Application Serial No.: 10/784,714  
Applicants: Yoshiharu OOI et al.  
Filing Date: February 24, 2004  
For: MULTI-LAYER DIFFRACTION TYPE POLARIZER  
AND LIQUID CRYSTAL ELEMENT  
Group Art Unit: 2871  
Examiner: CHUNG, D. Y.

SIR:

Attached hereto for filing are the following papers:

### PROVISIONAL ELECTION

Our check in the amount of - is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Gregory J. Maier

Registration No. 25,599

Raymond F. Cardillo, Jr.

Registration No. 40,440

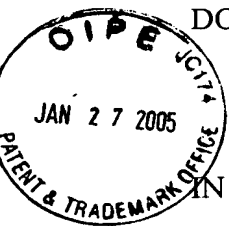
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DOCKET NO: 249223US2 CONT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
YOSHIHARU OOI ET AL. : EXAMINER: CHUNG, D. Y.  
SERIAL NO: 10/784,714 :  
FILED: FEBRUARY 24, 2004 : GROUP ART UNIT: 2871  
FOR: MULTI-LAYER DIFFRACTION :  
TYPE POLARIZER AND LIQUID  
CRYSTAL ELEMENT

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Communication dated December 30, 2004, and the Election Requirement therein, Applicants provisionally elect, with traverse, the species identified in the Requirement as II, the invention of Claims 5-8 for further examination on the merits in the present application. Applicants further list Claims 5-8 as reading on the elected species.

Applicants respectfully traverse the Restriction Requirement because the PTO has not carried forward its burden of proof to establish that searching and examining the noted sets of claims together would be an undue burden.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

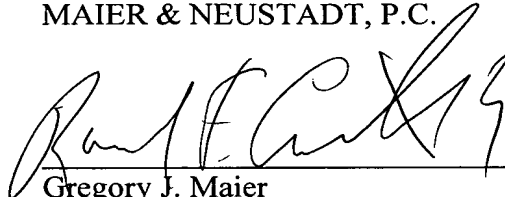
The claims of the present invention would appear to be part of an overlapping search area.

In addition, the outstanding Office Action addresses only Claims 1-11 although Claims 1-12 are pending in this application. Examiner Chung indicated during a telephone conversation with Applicants' representative on January 11, 2005, that Claim 12 was inadvertently omitted from the Office Action and it should be included in species III.

Accordingly, Applicants respectfully traverse the outstanding Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



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